

## REMARKS

Claim 1 is amended. Basis for this amendment is found, e.g., on p. 8, l. 14 and throughout the specification.

Claim 5 is amended. Basis for this amendment is found, e.g., on p. 8, l. 14, claim 11 as filed, and throughout the specification.

Claim 16 is new. Basis for this amendment is found, e.g., on pp. 14-19 and in claim claim 14 as filed.

Claims 17 and 18 are new. Basis for these claims is found on p. 19, ll. 17-19.

Claims 6-15 were previously withdrawn.

Claims 1-5 and 16-18 are now pending in this application.

No new matter has been added.

## §112 Rejection of the Claims

Claims 1-5 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

As amended, the claims are quite specific as to both the antigen (eotaxin or 4-50 residue fragment of eotaxin) and the carrier (protein toxoid). The Examiner's suggestion that the eotaxin bound to the toxoid will interfere with the immune response is speculative. Even if the eotaxin moiety could be shown to have the effect of unbound eotaxin, there is no reason to think a transient enhancement of eotaxin activity would prevent the generation of antibodies in response to the vaccine. Moreover, the presence of a toxoid such as diphtheria toxoid or tetanus toxoid would be expected to drive the immune response towards a Th2 (humoral) rather than Th1 (cellular) response.

## §102 Rejection of the Claims

Claims 1-5 were rejected under 35 U.S.C. § 102(b) as being anticipated by McDonald et al. (WO 00/04926).

McDonald discloses fusion proteins including eotaxin linked to toxin which act as "magic bullets" to destroy cells to which the protein binds. As amended, the claims specify that the

carrier in this case is a toxoid, as opposed to a toxin, and by definition, a toxoid does not have significant cytotoxic activity.

Claims 1-5 were previously rejected under 35 U.S.C. § 102(e) as being anticipated by Backmann et al. (US 2003/015479). This rejection was withdrawn in the last Advisory Action.

### CONCLUSION

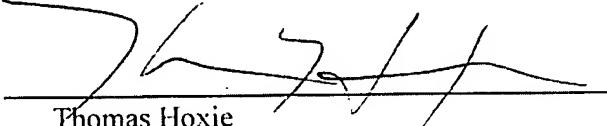
Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney to facilitate prosecution of this application.

A petition for extension of time and a request for continued examination have been filed separately, and it is believed no addition fees are required. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-4255.

Respectfully submitted,

Date: March 25, 2009

By

  
Thomas Hoxie  
Reg. No. 32,993

Hoxic & Associates LLC  
75 Main Street, Suite 301  
Millburn, NJ 07041  
973-912-5232